

REMARKS

This amendment is responsive to the Office Action of April 3, 2003.

It is respectfully submitted that this amendment will require neither a new search nor substantial reconsideration.

In the Office Action, claims 1-4 of the present application were rejected under 35 U.S.C. §102(e) as being anticipated by the Tomic reference (U.S. Patent No. 6,217,215). The Office Action states that the Tomic reference “discloses a similar arrangement to applicant’s invention except Tomic constructs his closure mechanism with two ribs having a pair of barbs extending laterally from a central tip thereof and the two ribs are bordered by two additional ribs having just one barb extending from a distal end thereof.” Further, the Office Action states that “it has been held that omission of an element with the consequent loss of its function is an indication of obviousness.”

However, the Applicant respectfully submits that the omission of the element from Tomic does not result in so much a consequent loss of function, but rather an improvement in function which is not obvious. The use of two, or more, ribs with double barbs on the female profile, beside each other, as taught by the Tomic reference, does not allow room for the ribs to flex adequately when the male ribs are filling all of the troughs of the female profile. That is, the sideways movement of one rib with a double barb binds against an adjacent rib with a double barb. In other words, at least one of the troughs or grooves would be decreased in width during the interlocking process in the prior art Tomic reference. This causes binding wherein the required closing force for the zipper of the Tomic reference would vary greatly depending on the number of the male ribs that are engaged with the female profile. When the Tomic reference at col. 8, lines 18-19, states that the “profiles may include any number of profiled elements”, the

merely shows that Tomic did not foresee the problem that having more than one double barbed rib on the female profile will create. With this in mind, the Tomic reference could be construed as teaching away from the present invention in that Tomic did not recognize the benefits of the present invention. Too many ribs would make the zipper too difficult to close, too few or the wrong arrangement would make it too easy to separate. Simply put, removal of one of the double barbed ribs from the female profile of the Tomic reference creates a zipper that functions in a superior way which was not foreseen by Tomic.

In order to positively recite the resulting function of the present invention in a way which distinguishes over the Tomic reference, the applicant has added the language "whereby said two of said ribs shaped with a distal end with one and only one barb flex outwardly in said interlocking relationship, thereby widening all of said first plurality of continuous grooves". It is respectfully submitted that this defines over the Tomic reference in that such an outward flexure of the ribs with one barb during an interlocking relationship would typically cause at least one rib with two barbs to bind against an adjacent similar barb, thereby causing a narrowing of at least one of the plurality of continuous grooves.

It is therefore respectfully submitted that the presently pending claims are patentable over the Tomic reference.

For all of the reasons above, it is respectfully submitted that all of the presently pending

claims are in immediate condition for allowance. The Examiner is respectfully requested to withdraw the rejections of the claims, to enter this amendment, to allow the claims, and to pass this application to early issue.

Respectfully submitted,



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VERSION WITH MARKINGS TO SHOW CHANGES MADE

Please amend Claim 1 as follows:

1. (twice amended) A variable alignment zipper comprising:
 - a first interlockable profile having a longitudinally extending web portion and having a longitudinally extending locking portion, said locking portion of the first profile having a plurality of continuous shaped ribs extending therealong, said ribs having a central tip and barbs extending laterally at each side of the tip with the barbs providing a first interlocking contact area;
 - a second interlockable profile having a longitudinally extending web portion and having a longitudinally extending locking portion, said locking portion of the second profile having a plurality of continuous shaped ribs extending therealong with one and only one of said ribs having a central tip and a pair of barbs extending laterally at each side of the tip and said rib with a central tip of said second profile bordered by two of said ribs shaped with a distal end with one and only one barb extending laterally from the distal end with the barbs providing a second interlocking contact area;
 - a first plurality of continuous grooves therebetween the ribs of said second profile, said first plurality of continuous grooves receptive in at least one interlocking relationship to the locking portion of said first profile, whereby said two of said ribs shaped with a distal end with one and only one barb flex outwardly in said interlocking relationship, thereby widening all of said first plurality of continuous grooves.